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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

**PEOPLE OF THE STATE OF
CALIFORNIA**, ex rel. Xavier Becerra,
Attorney General of California,

Plaintiff,
v.

**UNITED STATES DEPARTMENT OF
EDUCATION** and **MIGUEL CARDONA**, in
his official capacity as the United States
Secretary of Education,

Defendants.

Case No. 3:21-cv-384-JD

**DEFENDANTS' STATEMENT OF
RECENT DECISION**

Date: October 14, 2021

Time: 10:00 a.m.

Courtroom: 11

Defendants attach hereto a recent decision issued in *California v. Cardona*, No. 5:20-cv-1889, 2021 WL 4461187 (N.D. Cal. Sept. 29, 2021). In that case, involving the same parties as this case, the court held that the plaintiff California lacked standing to assert a challenge against the U.S. Department of Education under the Administrative Procedure Act (“APA”). Although the court declined to reconsider its prior decision construing California’s APA challenge as procedural—a position that Defendants here have contested—the court nevertheless held that California failed to show an injury-in-fact sufficient to support standing and dismissed California's claim in its entirety. *See id.* at *6. The court followed the reasoning in *Maryland v. U.S. Dep’t of Educ.*, 474 F. Supp. 3d 13 (D.D.C. 2020), *vacated on other grounds*, 2020 WL 7868112 (D.C. Cir. Dec. 22, 2020), which Defendants have also cited in support of their Motion to Dismiss in this case. *See California*, 2021 WL 4461187, at *5; Def. MTD [ECF No. 25] 5-11.

1 DATED: October 4, 2021

Respectfully submitted,

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6 /s/ Kathryn L. Wyer

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